

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Western District of New York

Case No.

23-cv-6621-FPG

(to be filled in by the Clerk's Office)

Asa Roberts

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

JURY TRIAL: Yes ☒ No ☐

Donald Spotts, Masocco Marc
Joanne Schmitt, A. Robiguez
C. Hill, B. Brown, [unclear], Bobbi Bedient
[unclear], [unclear]

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Amended complaint

Amended COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
 (Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Asa Roberts #15A3783

All other names by which
you have been known:

None

ID Number

#15A3783

Current Institution

Attica Correctional Facility

Address

Box 149

Attica

City

NY

State

14011-0149

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Donald Spotts

Job or Title (*if known*)

Correctional officer

Shield Number

Employer

Address

Five points correctional Facility Box 119

Romulus

City

NY

State

14541-0119

Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

B. Brown

Job or Title (*if known*)

Correctional officer

Shield Number

35639

Employer

Address

Five points correctional Facility Box 119

Romulus

City

NY

State

14541-0119

Zip Code



Individual capacity



Official capacity

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

Defendant No. 3

Name

Joanne Schmitt

Job or Title (if known)

Registered nurse

Shield Number

Employer

Address

Five points correctional Facility Box 119

Romulus

NY

14541-0119

City

State

Zip Code



Individual capacity



Official capacity

Defendant No. 4

Name

~~See attached~~ "See attached" (A)

Job or Title (if known)

~~See attached~~ (1) page

Shield Number

Employer

Address

Five points correctional Facility Box 119

Romulus

NY

14541-0119

City

State

Zip Code



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

due process Rights
14th amendment, Eighth amendment, deprivation of rights

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

ATTACHED (A) (1) of (1) page
DEFENDANTS INFORMATION

Defendant No.4

Name: Marc Masocco

Job or Title: Sergeant

Shield number: N/A

Employer: DOCCS

Address: Five Points Correctional Facility
Box 119 Romulus,ny 14541-0119

☒ Individual Capacity ☐ Official Capacity

Defendant No.5

Name: bobbi bendient

Job Title: Sergeant

Shield number: N/A

Employer: DOCCS

Address: Five Points Correctional Facility
Box 119 Romulus,ny 14541-0119

☒ Individual Capacity ☐ Official Capacity

Defendant No.6

Name : C.hill

Job or Title: Deputy Superintendent Of Programs

Shield number: N/A

Employer: DOCCS

Address: Five Points Correctional Facility
Box 119 Romulus,ny 14541-0119

☒ Individual Capacity ☐ Official Capacity

Defendant No.7

Name: A.Robiguez

Job or Title: Director Special Housing Unit
/INmate Disciplinary program

Shield Number : N/A

Employer:DOCCS

Address: The Harriman State Campus- Building 2
1220 Washington Avenue
Albany,ny 12226-2050

☒

Individual Capacity

☐ Official capacity

~~344~~ ATTACHMENT (B)

1) On May 25, 2022, I wrote a grievance about my food being tampered with.

2) Correctional Officer Brown came to my hospital door on June 13, 2022, at about 3:30 p.m. and stated to Plaintiff, "slave nigger I would beat your body red and you will be in a pine box."

3) Correctional Officer Brown continued "keep writing a grievance, 'yeah we play with your food' we don't want anybody in the hospital, go back to your cell before you get hurt; it's okay you won't be writing no more when i'm done with you cock sucker lick my dick and I leave you alone you snitch, hey we have a snitch."

4) The following day June 14, 2022, around 3:45 p.m. Correctional Officer Donald Spotts came to my hospital window and started to bang on the window glass with a wooden stick. Donald Spotts then stated "you need to leave and your going to suicide watch."

5) Correctional Officer Bobbi Bedient and Mental Health Staff Jane Doe asked if Plaintiff was suicidal at that point he told Jane Doe he was not.

6) Donald Spotts then walked up to Plaintiff window very loud and aggressive and stated "don't worry I'm gone get you."

7) Later that day around 4:30 p.m. Nurse Joanne Schmitt opened Plaintiff slot to give Plaintiff the dinner time Jevity nutritional shake because Plaintiff refused to eat the dinner meal. Plaintiff explained to Ms. Schmitt one of the Jevity Box was open from the morning and is spoiled.

8) Registered Nurse Joanne Schmitt response to Plaintiff "I'm not giving you a different one take this one or you ain't gone get nothing," Plaintiff told Ms. Schmitt that she would be violating the Court Order if she did that. Ms. Schmitt response was very aggressive "SHUT THE FUCK UP I DON'T CARE I RUN THE SHOW." Ms. Schmitt turned around and went into the nurse station slamming the door.

9) This prompted Correctional Officer Donald Spott's to tell Plaintiff to place his hands through the feed up hatch at which point Plaintiff followed the direct order and turn around placing his hand's on the feed up hatch.

10) Plaintiff arm was forcefully twist upwards forcing him to turn around and see John Doe Officer bending his arm trying to pull him through the feed up hatch with the help of John Doe # Two (2), Plaintiff arm and shoulder was out the hatch.

11) Correctional Officer Donald started to slam Plaintiff arm in the feed up hatch in his own individual capacity.

12) Correctional Officer B. Brown opened the hospital door and punched and kicked Plaintiff. John Doe #1, John Doe #2, Donald Spotts all helped Correctional Officer B. Brown assault Plaintiff dragging him and choking him, while Bobbi Bedient yelled "are you done playing games yet." Plaintiff states he woke up in pain and blood dripping from his hand and nose.

13) Plaintiff yell's for medical attention. Nurse Joanne Schmitt look at me and then laugh shaking her head and finger in a no motion.

14) About or around 5:00 p.m. Plaintiff started to yell for water as Plaintiff water was shut off. Correctional Officer Marc Masocco came to Plaintiff window pour water from the sink opened Plaintiff slot and threw water at the Plaintiff.

15) Correctional Officer Marc Masocco continued filling water in a cup splashing Plaintiff and the hospital door even at one point Plaintiff whole cell with a fire extinguisher while John Doe #1 and John Doe #2 watched.

16) Marc Masocco told Plaintiff to come out or it would be round number two. Plaintiff refused and told them not without a camera in plain view at which point the camera was recovered.

17) Plaintiff was taken to infirmary room number "five" (5), were Correctional Officer Marc Masocco told hi m that he was being placed on suicide watch. Plaintiff told Marc Masocco he never said he he was suicidal. Plaintiff was forced

on to suicide watch.

18) Correctional Officer B. Brown took all of Plaintiff property and placed it in a bag, dragged it pass his cell and told Plaintiff "I'm throwing this out and it ain't over yet."

19) On June 15, 2022, John Doe Correctional Officer's didn't give Plaintiff food for breakfast and lunch. The next arriving John Doe Correctional Officer also didn't feed Plaintiff for diner.

20) On June 16, 2022, around 9:00 a.m., Plaintiff asked Jane Doe Nurse why he didn't get any food all day yesterday. John Doe Correctional Officer told Plaintiff "it came from the higher up's, that we are forcing you off a hunger strike even if you don't eat we will say you ate." Jane Doe told Plaintiff "yeah the game is over we sick of you." Plaintiff didn't eat all day.

21) June 17, 2022, around 11:00 p.m. Plaintiff yelled to Nurse Mellisa Blake that he didn't take any food. Nurse Blake stated she didn't see and grabed a box of Jevity. Correctional Officer B. Brown snatched it out of Nurse Blake hand and poured it down the sink drain.

22) Plaintiff asked Nurse Blake why she let Correctional Officer do that. Ms. Blake told Plaintiff she don't have nothing to do with that and she is staying out of that.

23) Plaintiff reported to the Medical Director John Doe and NP Molly Fisher about all the injury he had which they refused to treat him for. John Doe cleared Plaintiff from hunger strike.

24) On June 28, 2022, Plaintiff was given a Misbehavior Report stating that he assaulted staff, did a unhygienic act, conducted a violent conduct and had committed interference with a employee none of which Plaintiff did.

25) Hearing Officer C. Hill never presented any evidence that was collected which the misbehavior report stated was secured per directive #4931. Plaintiff

objected to the whole hearing and told Hearing Officer C. Hill she was very bias Plaintiff was found guilty of all charges and given 210 days for every sanction.

26) Plaintiff wrote a grievance for every incident and exhausted all administrative remedies even for his misbehavior report which special housing Director A. Rodriguez and affirmed on September 6, 2022.

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

"see attached" (B) 1 of 4

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

"see attached" (C)

Events That Arose In Five Points Correctional Facility

On May 25,2022 While in the Hospital Infirmary Room#2 Plaintiff Wrote Grievance About "Food Being Poisoned"

On June 13,2022 At 3:30pm Officer B.Brown Harrassment,Sexual Harassment And Threats

On June 14,2022 Around 3:45pm Officer Donald Spotts Harrassment and threats

Then Around 4:30pm Nurse Joanne Schmitt Denied

To Give Jevity and Became Aggressive Then Around 4:35pm Donald Spotts Made A order To Place Hands In Slot ,John doe#1 Twist Plaintiff Arm Trying To Brake it While Donald Spotts Smashed plaintiffs arm Repeatedly Officer B.Brown Opened Hospital Door And Assault Plaintiff While John Doe#1 ,John Doe#2 Helped Choke,Drag and Assault Plaintiff Knocking Him Out Unconscious

Plaintiff Started To Yell For Medical Attention Nurse Joanne Schmitt Denies Medical Care And Taunts Plaintiff Then Around 5:00pm yelled For His Water To Be Turned Back On

Officer Marc Masocco Came To Plaintiff Window And Got Water From Sink And Splashed

Plaintiff Repeatedly While John Doe#1 and John Doe#3 Watched Even At One Point

Spraying plaintiff Cell With A Fire Extinguisher

Correctional Officer Marc Masocco Told Plaintiff To Come Out Or Its Round Two (2)

Plaintiff Said Only With A Camra At One Point It Was recovered plaintiff Comply With

The officers Orders Plaintiff Was Then Taken To Infirmary Room# 5 and was placed On

Suicide Watch Officer B.Brown Put Plaintiff Property In the Trash

On June 15,2022 plaintiff Was denied All three (3) Meals For The Day By John Doe,s staff

On June 16,2022 Plaintiff Told Jane Doe Nurse He Did Not Get Any Meals The Day before

On June 17,2022 Around 11:00am Plaintiff Told Nurse Mellisa Blake He Did Not eat

Officer B.Brown Snatched The Nutritional Shake (JEVITY) Out Of Nurse Blake Hand And

Pour It Down The Drain PLaintiff Reported What Happen To The medical Director about

All of his Injuries Plaintiff Was Did Not Get Any Medical Treatment For His Injuries

On June 28,2022 Plaintiff Was Given A Misbehavior Report At Hearing None Of What

Evidence That The Misbehavior Report Stated Was Recovered ~~Plaintiff~~ Plaintiff

Rejected To The Whole Hearing Even The Witness Plaintiff Call Was Not Called To The Hearing

Plaintiff Exhausted All Administrative Remedies For The Hearing And The Grievance Decisions

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

- C. What date and approximate time did the events giving rise to your claim(s) occur?

"See attached" (c) page(1) of(1)

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

"See attached" (c) page(1) of(1)

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

pain in Hand, Back, Shoulder, elbow, chest, forehead, nose
wrist, nerve damage to elbow, cut on side of
hand, Shoulder blade, Broken right index finger

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I'm asking for \$1,000,000.00 for the
things I suffered during this incident
and for the misbehavior Report to
be expunged from my institutional Record

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Five points correctional facility Box 119 Romulus, NY
14541

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

Denied Medical, Harassment, assault, Denied Food, tampering with Food
Sexual harassment

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Kive points correctional facility

2. What did you claim in your grievance?

sexual Harrassment
Denied, medical, Harrassment, assault, Denied Food, tampering with Food

3. What was the result, if any?

Grievance denied

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

appeal all the way to the Highest level of the process
"affirmed" appeal



Corrections and Community Supervision

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

1 of 10
Attached (D)

To: Robert, A 15A3783/RU-C1-01B

From: M. Schultz, IGPS 

Date: 12/23/22

Subject: grievances

Attached is a list of all the grievances we have on file for you. You have appealed all but one of them to CORC.

5/25

2 of 10

23

NEW YORK STATE Corrections and Community Supervision KATHY HOCHUL <small>Governor</small> ANTHONY J. ANNUNCI <small>Attorney General</small>	Grievance Number FPT-0580-22	Design/Code I/49	Date Filed 05/25/22
	Associated Cases		Hearing Date 12/22/22
	Facility Five Points Correctional Facility		
INCARCERATED GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE	Title of Grievance Food Tampering By Staff		

GRIEVANT'S REQUEST UNANIMOUSLY DENIED

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby denied. CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that at the time of the instant complaint the grievant was housed in the Infirmary, and that CO's K... and S... deny tampering with the grievant's meals. CORC has not been presented with sufficient evidence of malfeasance by staff.

CORC further notes that the grievant's allegations prior to May 2022 are untimely and should have been addressed at that time. In addition, contact with the IGP Supervisor at Elmira CF reveals that the grievant did not file any grievances at that facility in 2022 and that grievances are processed, investigated and responded to in accordance with Directive #4040.

CORC advises the grievant to address safety and security concerns to area supervisory staff, at the time, for the most expeditious means of resolution, medical issues via sick call, and mental health concerns to OMH staff.

RAL/ras

6/13 | 6/13

③ of ⑩
Attached (D) ②

Rec'd 1/3



Corrections and Community Supervision

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM

From: Rachael Seguin, Director, Incarcerated Grievance Program
SUBJ: Receipt of Appeal
Date: 12/22/2022

A ROBERT 15A3783
Five Points Correctional Facility
Your grievance FPT-0673-22 entitled
Harassed/Threatened By CO In Infirmary
was rec'd by CORC on 11/9/2022

A disposition will be sent to you after the grievance is reviewed by CORC

7/12

40 of 10
Attached (D)

Auburn



Corrections and Community Supervision

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM

From: Rachael Seguin, Director, Incarcerated Grievance Program
SUBJ: Receipt of Appeal
Date: 3/10/2023

A ROBERT 15A3783
Five Points Correctional Facility
Your grievance FPT-0835-22 entitled
Tampering With Food
was rec'd by CORC on 1/11/2023

A disposition will be sent to you after the grievance is reviewed by CORC



**Corrections and
Community Supervision**

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM

From: Rachael Seguin, Director, Incarcerated Grievance Program
SUBJ: Receipt of Appeal
Date: 2/14/2023

A ROBERT 15A3783
Five Points Correctional Facility
Your grievance FPT-0762-22 entitled
Assaulted/Called Name/Threatened By Officers And
Denied Jevity
was rec'd by CORC on 12/15/2022

A disposition will be sent to you after the grievance is reviewed by CORC

7/12/22

4/12/22

midstate



6 of 10
Attached (D)

**Corrections and
Community Supervision**

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM

From: Rachael Seguin, Director, Incarcerated Grievance Program
SUBJ: Receipt of Appeal
Date: 5/23/2023

A ROBERT 15A3783
Five Points Correctional Facility
Your grievance FPT-0829-22 entitled
Assaulted/Threatened/Harassed By Officers And Denied
Medical Care
was rec'd by CORC on 3/8/2023

A disposition will be sent to you after the grievance is reviewed by CORC

9/22

7 of 10
Attached (D) 5



Corrections and Community Supervision

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM

From: Rachael Seguin, Director, Incarcerated Grievance Program
SUBJ: Receipt of Appeal
Date: 3/20/2023

A ROBERT 15A3783
Five Points Correctional Facility
Your grievance FPT-1201-22 entitled
Unsealed Food Items In Kosher Tray
was rec'd by CORC on 1/19/2023

A disposition will be sent to you after the grievance is reviewed by CORC



**Corrections and
Community Supervision**

KATHY HOCHUL
Governor

ANTHONY J. ANNUCCI
Acting Commissioner


MEMORANDUM

From: Rachael Seguin, Director, Incarcerated Grievance Program
SUBJ: Receipt of Appeal
Date: 5/23/2023

A ROBERT 15A3783
Five Points Correctional Facility
Your grievance FPT-1566-22 entitled
Received Kosher Meal Unsealed
was rec'd by CORC on 3/8/2023

A disposition will be sent to you after the grievance is reviewed by CORC

9 of 10 Attached (D) ①

 NEW YORK STATE Corrections and Community Supervision KATHY HOCHUL Governor ANTHONY J. ANNUCCI Acting Commissioner	Grievance Number FPT-0673-22	Desig./Code I/49	Date Filed 06/13/22
	Associated Cases		Hearing Date 01/26/23
	Facility Five Points Correctional Facility		
INCARCERATED GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE	Title of Grievance Harassed/Threatened By CO In Infirmary		

GRIEVANT'S REQUEST UNANIMOUSLY ACCEPTED IN PART

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby accepted in part.

CORC notes that CO B... denies harassing, threatening, retaliating or conspiring against the grievant, tampering with their food or commissary sheet, or making inappropriate comments. CORC has not been presented with sufficient evidence to substantiate malfeasance by staff.

CORC asserts that no reprisals of any kind shall be taken against an incarcerated individual or employee for good faith utilization of the grievance procedure. An incarcerated individual may pursue a complaint that a reprisal occurred through the grievance mechanism. It is noted that the sexual misconduct allegations have been reported in accordance with the Department's PREA guidelines.

With respect to the grievant's appeal, CORC asserts that all relevant information must be presented at the time of filing in order for a proper investigation to be conducted at the facility level and advises the grievant to address security and property issues to an area supervisor, at that time, and medical concerns via sick call.

TAM/ras

NEW YORK STATE
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

⑧

10 of 10 Attached (D)

REVIEW OF SUPERINTENDENT'S HEARING

RU-CI-1B

NAME: ROBERT, ASA

NO. 15A3783

HEARING FACILITY: FIVE POINTS

ON BEHALF OF THE COMMISSIONER AND IN RESPONSE TO YOUR RECENT
LETTER OF APPEAL, PLEASE BE ADVISED THAT YOUR SUPERINTENDENT'S HEARING OF
JULY 11, 2022, HAS BEEN REVIEWED AND AFFIRMED ON SEPTEMBER 6, 2022.

A. RODRIGUEZ
DIRECTOR, SPECIAL HOUSING/
INMATE DISCIPLINARY PROGRAM

CC: FACILITY SUPERINTENDENT
CENTRAL OFFICE FILES

APPEAL DECISION RENDERED PURSUANT TO SECTION 254.8 OF CHAPTER V AND
ELECTRONICALLY PRODUCED UPON THE AUTHORITY OF THE DIRECTOR OF SPECIAL
HOUSING/INMATE DISCIPLINE PROGRAM.

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

"See attached" (D) 1 of 10

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition.

N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: _____

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

[Signature]
 Asa Roberts
 15 A3783
 Attica Correctional Facility Box 149
 Attica NY 14011-0149
 City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

Print

Save As...

Add Attachment

Reset

Revised 05/01 WDNV

CERTIFICATE OF SERVICE

Instructions and Forms

Make extra copies of these forms before you use them for the first time, so that you will have copies to use for future filings in your case. You may also obtain copies on the Western District web site at www.nywd.uscourts.gov on the Internet.

All document(s) which you wish to file with the Court after the complaint has been served must first be served on all other parties to the action (if appearing *pro se*) or all other parties' attorneys. The service may be accomplished either by hand-delivering or by mailing a copy of the document(s) to the other parties or to the parties' attorneys before you file the papers with the Court.

You must then include with the document(s) you are filing with the Court either a signed and dated **Certificate of Service** informing the Court under penalty of perjury that you have served a copy of the documents (which you must name) on the other parties by hand-delivering or mailing the document(s) to the other parties or their attorneys on a named date in which you state the same thing.

Revised 05/01 WDNV

CERTIFICATE OF SERVICE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Plaintiff(s),

CERTIFICATE OF SERVICE

v.

_____ -CV- _____

Defendant(s).

I, *(print your name)* _____, served a copy of the attached papers
(state the name of your papers) _____

_____ upon all other parties in this case
by mailing ☐ by hand-delivering ☐ *(check the method you used)*

these documents to the following persons *(list the names and addresses of the people you served)* _____

on *(date service was made)* _____

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge, information and belief.

Executed on _____
(date) *(your signature)*

AFFIDAVIT OF SERVICE OF MAILING

STATE OF NEW YORK)
 COUNTY OF WYOMING) ss.:

ASA ROBERTS, being duly sworn, deposes and says:

On the 19 day of March, 20 24, I served a true copy of the annexed Amended Complaint by mailing the same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the

State of New York, addressed to the last known addressee(s) as indicated below:

(Insert here the name[s] and address[es] of the person[s] to whom you are mailing the papers being filed with this Court. If necessary, attach extra pages for additional names and addresses.)

Name & Address	Name & Address
CLERK, U.S. District Court for the Western District of New York	
Kenneth B. Keating Building and U.S. Courthouse 100 State Street	
Rochester, N.Y. 14614-1387	

(Signature)

(Print Name)

Sworn to before me this 19th
 day of March, 2024.

[Signature]

Notary Public

Michael A Barham
 Notary Public, State of New York
 Reg. No. 01BA6392051
 Qualified in Erie County
 Commission Expires 06/03/2027

Revised: September 18, 2018